

And so shall you do for any lost article of your brother that may become lost from him and you find it; you cannot hide yourself. (22:3)

Horav Yechiel Yaakov Weinberg, zl, writes that he once received a brief from a law professor at the University of Buenos Aires lauding the *halachic* jurisprudence of the Torah. Indeed, the man wrote that he had studied the entire Torah and was able to understand and qualify the rationale for every law in the Torah – except for one. As impressed as he was by the Torah, he was extremely troubled with the one law that does not seem to make sense – at all. This is the law concerning *yi'ush*, whereby one who despairs of recovering his lost object gives up hope of ever seeing it again; thus, the finder is allowed to keep it. How can a natural, emotional response to a depressing situation like losing something very dear to a person permit this object to whomever discovers it? Are we a nation of wolves waiting to pounce upon anything that our fellow man loses?

The Montreaux *Rosh Yeshivah* replied to the professor that if there is any *halachah* in Biblical jurisprudence which exemplifies the difference between *machsheves Yisrael*, Jewish thought, and its gentile counterpart, it is the law of *yi'ush*, abandonment of hope. He explains that Roman law, which has served as the foundation for much of western civilization's approach to jurisprudence, "sanctifies" individual ownership. The source of acquisition is man's ability to grasp the item and maintain it in his personal possession. In other words, the object belongs to "me"; it is "mine"; "I" am its owner. Therefore, it is natural that in order for the ownership to come to an end, it takes an action to end ownership. A proactive act of acquisition is obviated by another proactive act of relinquishing ownership.

Jewish law believes *L'Hashem ha'aretz u'meloah*, "To Hashem belongs the land and everything within it." There is no such thing as individual ownership, since everything belongs to Hashem. The Almighty has granted each individual owner who acquires an object special *zechuyos*, rights, to use the item. After all is said and done, however, everything continues to belong to Hashem. He allows us to use it by virtue of our act of acquisition. The rights of ownership are not an absolute, limitless, unrestricted dominion; rather, the Torah restricts the propriety of the "owner" to the laws outlined by the Torah. The **Torah** has "determined" that when one abandons hope of retrieving his object, it becomes ownerless, and whoever takes it for himself may do so without any concern.

Rav Weinberg explains this further. *Baalus mamonis*, material ownership, is real – but not absolute. In his commentary to the beginning of the Torah, the quintessential *Rebbe* and annotator, *Rashi*, writes: "The entire land/world belongs to Hashem. When He willed it, He gave it to them. At His Will, He took it from them." In other words, the definition of ownership is *z'chus histamshus*, the right of use, which is wide-ranging and transferable through inheritance. It is a *kinyan gamur*, faultless acquisition, but not unconditional. Man was given the command of *Peru u'Revu u'milu es ha'aretz v'kivshuah*, "Be fruitful and multiply and fill the earth and subdue it" (*Bereishis* 1:28). As man inhabits the land through his conquering and acquisition, he becomes the rightful owner,

meaning he has rights to its ownership. When he abandons hope of it, he relinquishes his rights and it becomes *hefker*, ownerless, without any specific act of transference. The land/item reverts to its original owner, the *Borei Kol ha'Olamim*, Creator of the worlds until He designates it to its next "owner."

This is such a practical – yet powerful – way of looking at our material possessions. We live in a society in which everything revolves around "me" and "mine," where possession plays such a critical role, and one is characterized and classified in accordance with how much he possesses. We have lost sight of the true Owner of all that exists: Hashem. We fight for possession, scheme for ownership and control, when, in fact, it all belongs to Hashem – Who will grant it to whom He determines should be its owner. One who is obsessed with "having," "owning," "controlling" lacks a primary element of faith in Hashem. The feeling should be: If I am supposed to have it – I will. If Hashem grants it to me, I will have it. Otherwise, I will not. Life would be so much easier if we would maintain this attitude.